

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: SB 1932

INTRODUCER: Senator Evers

SUBJECT: Justice Reinvestment Commission

DATE: March 17, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	Pre-meeting
2.	_____	_____	GO	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill creates the Justice Reinvestment Commission within the Executive Office of the Governor. The commission is charged with reviewing and analyzing criminal and juvenile justice laws and policies. It is expected to recommend changes to increase public safety, improve offender accountability, reduce recidivism, and control spending for correction facilities and programs. The bill includes both mandatory and suggested areas for the commission to address.

The commission is comprised of nine members from the adult and juvenile criminal justice community. It will be assisted in its work by an executive director and staff, and is authorized to call upon various state offices to complete its work. In addition, the commission can contract or partner with outside persons or entities. A specific requirement is development of a technical assistance agreement with an independent public policy research institution or an educational institution to assist with its review of the effectiveness of correctional policies.

The commission must issue an interim report of its findings and recommendations by December 31, 2011. A final report must be issued before the commission is abolished on December 31, 2012.

This bill creates a new section of the Florida Statutes.

II. Present Situation:

The Correctional Policy Advisory Council (CPAC) was created in 2008 as a result of Senate Bill 2000 (enacted as Chapter 2008-54, Laws of Florida). The purpose of the CPAC was to evaluate and make findings and recommendations to the Governor and Legislature about “correctional

policies, justice reinvestment initiatives, and laws affecting or applicable to corrections.” It was anticipated that this would be a first-ever comprehensive review of sentencing and corrections laws and policies. Although members were appointed, the CPAC has never met and will be abolished on July 1, 2011 as required by the enabling legislation.

As it became clear that the CPAC was not moving forward, some private organizations took up the call for examination of Florida’s justice policies with the goal of achieving better results at less cost. The two most prominent groups called for implementation of the CPAC or of a successor to look into justice reform issues.

The Coalition for Smart Justice and the Collins Center for Public Policy

In June 2009, the Coalition for Smart Justice issued “An Open Letter to the Governor, Legislature, and People of Florida.”¹ The Coalition is a diverse group of business, religious, and social service leaders facilitated by the Collins Center for Public Policy.² The letter noted that public safety is paramount to the public’s health and well being, but presented arguments for reform of the justice system. The letter noted specific concerns with: (1) excessive incarceration of non-violent persons; (2) the costliness of having to continue to build prisons; (3) ineffectiveness of the juvenile justice system; and (4) recidivism because of a lack of effective treatment and re-entry training in prison. It observed that the Department of Corrections’ (DOC) budget continued to grow even during a time of serious recession and budget crisis. The crux of the letter seemed to be that:

without reform, that budget will continue to grow at a pace that crowds out other mission-critical services such as education, human service needs, and environmental protection. Without reform, the criminal justice system will remain underfunded.

The “Open Letter” called for immediate initiation of a serious discussion about justice reform. It noted that many reform ideas should be considered, but specifically endorsed the following:

¹ http://www.collinscenter.org/resource/resmgr/smart_justice/transmittal_letter_and_open.pdf, (last viewed on March 18, 2011)

² The letter was signed by Parker Thompson (Chairman, Collins Center for Public Policy), Barney T. Bishop III (President & CEO, Associated Industries of Florida), Dominic M. Calabro (President & CEO, Florida TaxWatch), Tony Carvajal (Executive Vice President, Florida Chamber Foundation), Chris Holley (Executive Director, Florida Association of Counties), James R. McDonough (Secretary, Florida Department of Corrections 2006-2008), S. Curtis Kiser (Leroy Collins Institute), Dr. Lori Parham (Florida State Director, AARP), Mark P. Fontaine (Executive Director, Florida Alcohol and Drug Abuse Association), D. Michael McCarron (Executive Director, Florida Catholic Conference), Gail D. Cordial (Executive Director, Florida Partners in Crisis, Inc.), Andrew J. Vissicchio, Jr. K.M. (The Sovereign Military Order of Malta, American Association), David Murrell (Executive Director, Florida Police Benevolent Association), Judith A. Evans, (Executive Director, National Alliance on Mental Illness, Inc. (NAMI Florida, Inc.), Rev. Dr. Allison DeFoor (Prison Chaplain), Richard Doran (Florida Attorney General, 2002-2003), Jim Smith (Florida Attorney General, 1979-1987), Robert Butterworth (Florida Attorney General, 1987-2002), Bernie DeCastro (CEO, Florida Ex-Offender Reentry Coalition), Tom Slade (Chairman, Republican Party of Florida, 1993-1999), Martha W. Barnett (Partner, Holland & Knight), Nathaniel P. Reed (Founder, 1000 Friends of Florida), Allan G. Bense (Speaker of the Florida House of Representatives, 2004-2006), John M. McKay (President of the Florida Senate, 2000-2002), Tom Lee (President of the Florida Senate, 2004-2006), Kenneth “Buddy” MacKay (Governor, State of Florida, 1998 and Lieutenant Governor, 1991-1998), and Vicki L. Lukis (Vice Chair, Florida Department of Corrections Reentry Advisory Council).

- Immediate implementation of Senate Bill 2000 to allow the Correctional Policy Advisory Council to provide legislative focus and analysis on “new policy pathways” to address corrections issues.
- Funding of effective programs to provide community-based treatment for offenders and assistance to help inmates with their re-entry into society.
- Acceptance of assistance from the Council on State Governments, or other credible national organizations, in reviewing policy alternatives used in other states that can be successful in Florida.

The Coalition sponsored “Justice Summit 2009” in Tampa on November 16-17, 2009. The Summit had nearly 300 participants and featured individual and panel presentations as well as discussions of justice reform issues. Agreement was reached on the following recommendations:

- Establish a council to analyze all of the criminal justice and corrections policies and make recommendations for reforms. Fully implement Senate Bill 2000, establishing the Correctional Policy Advisory Council.
- Focus on securely locking up the most dangerous criminals rather than nonviolent offenders who can be turned around with treatment and services.
- Beef up existing drug, alcohol and mental health services, both in and out of prisons, and create solid education and job training programs, especially for young offenders.
- Enact other reforms that slow prison growth. Find opportunities for concrete changes that can reduce the numbers we lock up and how often they return to prison.³

The Collins Center followed up Justice Summit 2009 with a comprehensive report entitled “Smart Justice: Findings and Recommendations for Florida Criminal Justice Reform” in February 2010. The report included eight specific findings and recommendations for justice reform. Once again, the first recommendation was that the Correctional Policy Advisory Council should be implemented and given necessary support. It was noted that the attendees at the Justice Summit unanimously supported this recommendation.⁴

Florida TaxWatch

In 2009, Florida TaxWatch organized the Government Cost Savings Task Force to identify ways to achieve immediate cost savings without cutting core services or raising taxes or fees. The result of the Task Force’s efforts was publication in March 2010 of the “Report and Recommendation of the Florida TaxWatch Government Cost Savings Task Force to Save More than \$3 Billion.”⁵ The Task Force was comprised of 34 business and government leaders.⁶ Among the many recommendations for achieving efficiencies and cost-savings throughout government, the Task Force made eleven specific recommendations for justice reform “in the spirit of the not-yet seated Correctional Policy Advisory Council.”⁷

³ Smart Justice: Findings and Recommendations for Florida Criminal Justice Reform (February 2010), p. 6, http://www.collinscenter.org/resource/resmgr/smart_justice/smart_justice_report.pdf, (last viewed on March 18, 2011).

⁴ Ibid., p. 13.

⁵ Report and Recommendation of the Florida TaxWatch Government Cost Savings Task Force to Save More than \$3 Billion (March 2010), <http://www.floridataxwatch.org/resources/pdf/03042010FullReport.pdf>, (last viewed on March 18, 2011).

⁶ Prominent government sector participants included Lieutenant Governor Jeff Kottkamp, Senator J.D. Alexander, Representative Will Weatherford, Attorney General Bill McCollum, and Chief Financial Officer Alex Sink.

⁷ March 2010 Report of Recommendation, p. 40.

A significantly expanded Task Force report issued in December 2010 included 24 specific recommendations for Justice Reform, with additional subrecommendations.⁸ The first of what were termed “Big Picture Recommendations” for justice reform was to “create a commission to do a top to bottom review of the criminal justice system and Corrections.” The explanation of the recommendation noted the failure to implement Senate Bill 2000’s Correctional Policy Advisory Council and observed that “such a body, but expanded in both scope and membership, is essential to the deliberative process necessary for meaningful, sustainable, cost-effective justice reforms.” The full language of the recommendation is as follows:

The Governor, with the bipartisan, bicameral cooperation of the legislature and judiciary, create a commission composed of members of the executive, legislative and judicial branches along with experts in criminology, sentencing, corrections, veterans affairs, mental health, substance abuse, reentry, and community supervision to do a top-to-bottom data-driven assessment of Florida’s corrections and criminal justice system with a focus on cost-effective ways to improve public safety while slowing prison growth. This commission should be required to produce comprehensive, actionable reforms in time for consideration by the legislature in 2012.⁹

III. Effect of Proposed Changes:

The bill creates the Justice Reinvestment Commission within the Executive Office of the Governor. The stated purpose of the commission is to review and analyze criminal and juvenile justice laws and policies, and to recommend changes that will: (1) increase public safety; (2) improve offender accountability; (3) reduce recidivism; and (4) manage the growth of spending on correction facilities and programs. Any changes recommended by the commission must be consistent with the goals of protecting public safety and, when not inconsistent with protecting public safety, providing for cost-effective and efficient use of correctional resources.

The commission’s responsibilities include examination of many of the general issues raised by the Coalition for Smart Justice and specific recommendations of the Florida TaxWatch Government Cost Savings Task Force.

Responsibilities of the Commission

The commission has three mandatory tasks to perform within available resources. It must: (1) conduct analytical research of criminal and juvenile justice data; (2) evaluate criminal and juvenile justice and current spending at the state level; and (3) from this analysis and evaluation, develop practical and data-driven policy options that will achieve the commission’s four stated purposes.

In the analysis phase, the commission must consider the following information:

⁸ Report and Recommendation of the Florida TaxWatch Government Cost Savings Task Force for Fiscal Year 2011-12 (December 2010), <http://www.floridatxwatch.org/resources/pdf/12082010GCTSF.pdf>, (last viewed on March 18, 2011).

⁹ Ibid., p. 45.

- Aggregate crime and arrest data. The purpose is to understand particular types of crime and any general or local spikes in crime.
- Felony conviction data. The intent is to understand the relative numbers of offenders who are incarcerated for particular offenses and the length of their sentences.
- 3 to 5 years of data concerning prison or jail admissions and lengths-of-stay. The purpose is to determine what groups of offenders contribute most to prison population growth.
- Probation and parole data to determine which offenders are being reincarcerated for violating conditions of supervision.
- The capacity and quality of risk-assessment processes and recidivism-reduction programs. The focus would be on risk-reduction programs that are intended to divert persons from incarceration and reduce recidivism of offenders on community supervision. Such programs typically address drug treatment, mental health issues, education, job training, housing, and other human services.

The evaluation phase of the commission's work must include the following:

- Analysis of criminal and juvenile justice policies, including: (1) the proportionality and cost-effectiveness of sentencing policies; (2) the effect of diversion programs on prison disposition rates; and (3) the relationship between the strength of probation systems and the likelihood of a probation versus prison sentence, as well as the likelihood of a decrease in violation behavior, new convictions, and revocations resulting in return to prison.
- Analysis of state corrections expenditures, including the cost-effectiveness of current spending on institutional and community corrections, to understand the responsiveness of the existing system to criminal justice trends.
- Development of a prison population simulation model to project the impact of policy changes.

The policy development phase depends upon the results of the analysis and evaluation phases. Policy options must:

- Address admissions and length of stay as determined by current sentencing policy and practice.
- Address probation and parole, earned time policies, and recidivism-reduction strategies focusing on the number of offenders who are released or diverted from prison.
- Provide policymakers with assistance to strengthen community supervision agencies through statutory and administrative policy change, increases or reallocations of resources, and enhanced data analysis.

In addition to its required tasks, the bill encourages the commission to address the following specific topics:

- The effectiveness of mental health and substance abuse diversion programs.
- Development of a risk and needs assessment and cost-analysis tool to be used in sentencing.
- Alternative sanctions for low-level drug and property offenders.
- Expansion of electronic monitoring as an alternative to state incarceration.

- Encouragement for counties to increase local alternatives to state incarceration, and the impact of jail overcrowding on local alternative programs and sanctions.
- Post-incarceration drug courts.
- The effectiveness of prison reentry practices.
- Increasing the maximum gain-time accrual for state inmates.
- Development of a sanctions program for probation violations that relies on immediate and proportionate punishment as an alternative to recommitment to prison.
- Development of a progressive sanctions program for probation violations.
- The effectiveness of community supervision strategies.
- The delivery of supervision and programs in neighborhoods that have a high proportion of supervised and incarcerated offenders.

Structure of the Commission

The commission will have nine members, with the chair selected by the members. Members will not be compensated, but are entitled to reimbursement by their appointing entity for per diem and travel expenses paid by the appointing entity. The members include:

- A member of each legislative chamber appointed by their respective leader.
- A representative of the victim advocacy profession appointed by the Attorney General.
- The Attorney General, the chair of the Florida Parole Commission, the Secretary of Corrections, the Secretary of Juvenile Justice, or their respective designees.
- A state attorney and a public defender appointed by the Governor from nominees submitted by the Florida Prosecuting Attorneys Association and the Florida Public Defenders Association, respectively.

The commission will have subcommittees to complete its tasks. Personnel from state or local agencies may be designated as ex officio members to give technical advice to the subcommittees. The commission may take public testimony and members can participate either in person or through telecommunications.

The commission's executive director will be appointed by the Governor and report directly to the commission. He or she will be responsible for appointing, directing, and controlling any employees and staff members of the commission.

The bill requires the commission to convene by August 1, 2011, and to meet at least quarterly. It will be abolished on December 31, 2012.

Outside Assistance to the Commission

In addition to receiving technical advice from personnel of state and local agencies, the bill specifies that the commission can receive further assistance as follows:

- If necessary to carry out the commission's responsibilities, the executive director can enter into contracts or partnerships with persons or entities. This includes contracts and partnerships with nonprofit organizations and educational institutions.
- If requested by the chair or the executive director, the Office of Program Policy Analysis and Government Accountability (OPPAGA), the Office of Economic and Demographic Research

(EDR), the Department of Corrections (DOC), the Department of Juvenile Justice (DJJ), and any other state agency or department must assist the commission with data collection, analysis, and research. The commission may also request assistance from the Office of the State Courts Administrator, but the judicial branch is not obligated to comply with the request.

- The chair must develop a technical assistance agreement with an independent public policy research institution or an educational institution to assist with the review of the effectiveness of correctional policies. The agreement must include procedures to access the data collection, analysis, and research capabilities of OPPAGA, EDR, DOC, and DJJ.

Reporting Requirements

The commission is required to submit an interim report and a final report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The deadline for the interim report is December 31, 2011, and the deadline for the final report is December 31, 2012. The commission may also submit additional reports as it deems to be appropriate.

In addition to the scheduled reports, the Governor can direct the commission to report on its findings and recommendations concerning any issue pertinent to correctional policies, justice reinvestment initiatives, or laws affecting or applicable to corrections. The President of the Senate or the Speaker of the House of Representatives may request such a special purpose report.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None

C. Government Sector Impact:

There may be administrative costs for the commission, including payment of the executive director and staff. However, it is possible that some costs can be absorbed through existed resources (such as using current employees) and that outside funding may be available.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.